

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE  
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

JAN -8 2009

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

JAN CAROL RUST,

Appellant.

2 CA-CR 2007-0396  
DEPARTMENT A

MEMORANDUM DECISION

Not for Publication

Rule 111, Rules of  
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20060739

Honorable Frank Dawley, Judge Pro Tempore

AFFIRMED

R. Lamar Couser

Tucson  
Attorney for Appellant

P E L A N D E R, Chief Judge.

¶1 After a bench trial, the court found appellant Jan Carol Rust guilty of aggravated harassment in violation of an injunction, *see* A.R.S. § 13-2921.01(A), committed in January 2006. The trial court suspended imposition of sentence, placed Rust on probation for one year, and ordered that her class six felony remain undesignated pursuant to A.R.S. § 13-702(G) until her probation was terminated.

¶2 Rust filed a timely notice of appeal. Appointed counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967); *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969); and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating he had diligently searched the record without finding any “meritorious and non-frivolous issues” that might warrant reversal. Counsel has complied with the requirements of *Clark* by “setting forth a detailed factual and procedural history of the case with citations to the record, [so that] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” *Id.*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Counsel asks us to search for fundamental error. Rust has filed a pro se supplemental brief but has not presented or adequately developed any issues that are cognizable on appeal.

¶3 Viewed in the light most favorable to upholding Rust’s conviction, *see State v. Ossana*, 199 Ariz. 459, ¶ 2, 18 P.3d 1258, 1259 (App. 2001), the record and evidence established that Rust suffers from a delusional disorder that causes her to believe she is the victim of an organized conspiracy whose participants include her former husband, her former employer, the Tucson Police Department (TPD), and certain TPD employees. After three psychological examinations and a hearing pursuant to Rule 11, Ariz. R. Crim. P., the trial court found Rust mentally ill but competent to stand trial.

¶4 The victim of Rust’s harassment in this case is her neighbor, who is also a police lieutenant and thirty-year employee of TPD. After Rust had made a false report to TPD of domestic violence occurring at the victim’s home, the victim obtained a restraining order from city court, enjoining Rust from harassing him. Despite the injunction, which had

been personally served on Rust following a hearing at which she was present, Rust persisted in contacting TPD and making various accusations against the victim.

¶5 Charged by indictment with aggravated harassment in violation of § 13-2921.01(A)(1) and (C), Rust waived her right to a jury, and the trial court held a bench trial. The witnesses who testified at trial were the victim and three other police officers who had investigated Rust's complaints against the victim. After taking the matter under advisement, the court announced its findings at a separate hearing. It found that at least three of Rust's reports to the police about the victim were false and that, "given the buildup of other incidents," the third call had been intended to harass or annoy and was sufficient in nature to have produced the intended effect of "seriously annoy[ing] or bother[ing]" the victim. The court found Rust guilty of a class six felony and imposed a probationary term consistent with the presumptive prison term prescribed by A.R.S. § 13-701(C)(5) for a nonrepetitive, class six felony.

¶6 In her supplemental brief, Rust provides a statement of facts, statement of law, and summary of argument but does not raise and develop specific legal issues nor allege discrete legal errors by the trial court. Because she has not challenged particular rulings by the trial court, she has given us nothing specific to review. We therefore do not further address the statements and assertions in her supplemental brief.

¶7 Finally, the majority of Rust's complaints in her statement of facts seem to pertain to the effectiveness of the representation she received from trial counsel. Claims of ineffective assistance are properly raised only in post-conviction proceedings pursuant to

Rule 32, Ariz. R. Crim. P., not on appeal. “Any such claims improvidently raised in a direct appeal, henceforth, will not be addressed by appellate courts regardless of merit. . . . The appellate court simply will not address them.” *State v. Spreitz*, 202 Ariz. 1, ¶ 9, 39 P.3d 525, 527 (2002). Accordingly, we do not reach or consider Rust’s apparent contention that trial counsel was ineffective.

¶8 We have searched the record for error pursuant to our obligation under *Anders* and have found none. The state presented substantial evidence to support each element of Rust’s offense, and her one-year term of probation was appropriate under § 13-701(C)(5). The judgment of conviction and probationary term are, therefore, affirmed.

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JOHN PELANDER, Chief Judge

CONCURRING:

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JOSEPH W. HOWARD, Presiding Judge

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PHILIP G. ESPINOSA, Judge